

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Christopher M. Phillips,) Civil Action No. 2:15-3527-MBS
)
Petitioner,)
)
v.)
)
Sheriff Bruce Bryant,)
)
Respondent.)

ORDER AND OPINION

Petitioner Christopher M. Phillips (“Petitioner”), proceeding *pro se* and *in forma pauperis*, brings this action against Respondent Sheriff Bruce Bryant pursuant to 42 U.S.C. § 1983.

I. FACTUAL AND PROCEDURAL BACKGROUND

On September 2, 2015, Petitioner filed the instant petition while he was a state detainee at the York County Detention Center in Columbia, South Carolina. Petitioner was detained pending charges for “Burning Crops and Other Kind of Personal Property,” Arson 3rd Degree, and “Larceny/Petit or Simple Larcent - \$2000 or less (Enhancement per 16-1-57). *See* ECF No. 8. Petitioner brought this action to remedy issues of “food quality, food quantity/ oppression/ malice/ conditions of confinement.” ECF No. 1 at 2. For relief, Petitioner requested, *inter alia*, two billion dollars, reclassification to the “General Population” in the Detention Center, restoration of all pre-trial detainee privileges, and “public reprimand to include a fair trial for the defendant Bruce Bryant and third party defendants listed by title.” ECF No. 1 at 5.

In accordance with 28 U.S.C. § 636(b) (2012) and Local Civil Rule 73.02, D.S.C., the matter was referred to United States Magistrate Judge Mary Gordon Baker for a Report and

Recommendation. The Magistrate Judge reviewed the petition pursuant to 28 U.S.C. § 1915(e)(2)(B). The Magistrate Judge issued a Report and Recommendation on October 1, 2015. ECF No. 8. The Magistrate Judge determined that Petitioner's Complaint is "rambling, disconnected, and at times, fantastical," too vague to allege any constitutional violation, and fails to seek relief available under a § 1983 action. *Id.* Additionally, the Magistrate Judge evaluated the Prison Litigation Reform Act ("PLRA") three strike rule, which bars a Petitioner from proceeding *in forma pauperis* if the court has already dismissed three actions brought by a petitioner as "frivolous, malicious, or for failure to state a claim for which relief may be granted." 28 U.S.C. § 1915(g). Finding that Petitioner's Complaint fails to state a claim for relief, the Magistrate Judge recommended that the Complaint be summarily dismissed with prejudice and that this dismissal count as a "strike" for the purposes of 28 U.S.C. § 1915(g). *Id.* Petitioner filed an objection to the Report and Recommendation on October 26, 2015. ECF No. 10.

II. DISCUSSION

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight and the responsibility for making a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.*

The court is charged with making a *de novo* review of any portions of the Report and Recommendation to which a specific objection is made. *Id.* The district court need not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. *Orpiano v.*

Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982). Plaintiff's response does not rebut the Magistrate Judge's conclusion that the Complaint should be summarily dismissed.

The court adopts the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. The Complaint is dismissed with prejudice, and dismissal of this Complaint counts as a "strike" for the purposes of 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

/s/ Margaret B. Seymour _____

Margaret B. Seymour

Senior United States District Court Judge

July 19, 2016
Columbia, South Carolina